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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,908	09/28/2000	Yutaka Hasegawa	39303-20205.00	7896

25224 7590 07/27/2004

MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024

EXAMINER

FLETCHER, MARLON T

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/672,908

Applicant(s)

HASEGAWA ET AL.

Examiner

Marlon T Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42,45-101 and 103-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42,45-101 and 103-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-42, 45-101, and 103-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over James (6,069,310) in view of Lin et al. (6,366,791) and Akira (JP-8106282).

James discloses an electronic musical instrument (10) which treats music information associated to music tones and which can be coupled to a terminal set (100) which could be wireless as discussed in column 5, lines 33-40, communicable with a public communication network (160), comprising: a main block (104) that processes music information for generation of music tones, the processed music information being transferable for effecting remote generation of the music tones; a memory block (130/106) that is controlled for memorizing music information; and a control block (20) that controls the memory block to memorize the processed music information and to feed the memorized music information to the mobile wireless terminal set for transfer of the music information through the public communication network (160).

James does not specifically disclose a mobile terminal set nor the use of card slot for a data communication card.

However, Lin et al. disclose an electronic device (Figure 2) which treats music information associated to music tones and which can be coupled to a mobile wireless terminal set (20), communicable with a public communication network (35), comprising: a main block (21) that processes music information for generation of music tones, the processed music information being transferable for effecting remote generation of the music tones; a memory block (65) that is controlled for memorizing music information; and a control block (13) that controls the memory block to memorize the processed music information and to feed the memorized music information to the mobile wireless terminal set for transfer of the music information through the public communication network (35).

Lin et al. disclose the electronic musical instrument, further comprising a card slot provided for receiving therein a data communication card such that the mobile wireless terminal set is detachably coupled to the received data communication card by a connection cable as seen in figure 2.

Lin et al. disclose the electronic musical instrument, further comprising a connector provided for engagement with another connector provided in the mobile wireless terminal set such that the mobile wireless terminal set is detachably coupled to the connector as seen in figure 2.

Akira discloses an electronic device which treats music information associated to music tones and which can be coupled to a portable telephone terminal (14), communicable with a public communication network (via telephone line 26), comprising: a main block (CPU 1) that

processes music information for generation of music tones, the processed music information being transferable for effecting remote generation of the music tones; a memory block (24) that is controlled for memorizing music information; and a control block (23) that controls the memory block to memorize the processed music information and to feed the memorized music information to the portable telephone terminal (14) for transfer of the music information through the public communication network (abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Lin et al. and Akira with the apparatus and method of James, because Lin et al. enhance the apparatus of James by the use of a card memory device and further recites the use of a portable telephone terminal set such as a cellular telephone, wherein transmission of the music can be done through the mobile terminal. It can be seen in James that the transmitting and receiving terminal units (computers) can be wireless and therefore mobile. Therefore, James is enhanced by the direct disclosure of Akira, which provides a portable telephone terminal for transmitting music information.

### ***Response to Arguments***

3. Applicant's arguments filed 05/21/2004 have been fully considered but they are not persuasive. The applicant's arguments have been considered.

The amendment to the claims merely replaced the term "mobile wireless terminal set" with the term "portable telephone terminal". The applicant argues that the combination of references are improper, because the mobile station of Lin does not transfer data. However,

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Akira provides the feature of transferring data from the portable telephone terminal. In combination as stated above, the references meet the claim limitations and are proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

A handwritten signature in black ink, appearing to read "Marlon T Fletcher", with a stylized flourish at the end.

Marlon T Fletcher

Primary Examiner

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MTF

July 26, 2004